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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,081	07/11/2006	Walid Ali	PHUS040021US2	6958

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P. O. Box 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

KAHELIN, MICHAEL WILLIAM

ART UNIT	PAPER NUMBER
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3762

NOTIFICATION DATE	DELIVERY MODE
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03/23/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/597,081	Applicant(s) ALI ET AL.	
	Examiner MICHAEL KAHELIN	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12 and 24-43 is/are pending in the application.
- 4a) Of the above claim(s) 24,34,35 and 42 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9,11,12,25-32,36-40 and 43 is/are allowed.
- 6) ☒ Claim(s) 10,33 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In regards to claim 24, this claim was subject to restriction requirement in group VIII on 7/7/2010, and Applicant elected group V, corresponding to claims 9-12 in the response of 9/7/2010. Because paragraph 1 of the previous Office Action indicated that claims 1-8 and 13-23 are withdrawn (instead of claims 1-8 and 13-24), Applicant concluded that this can only mean that the restriction requirement was withdrawn with respect to only dependant claim 24 and that this silence regarding claim 24 can only mean that the claim is indicated by the Office Action as allowable. The examiner respectfully asserts that this conclusion is unreasonable because although the previous Office Action does not specifically indicate that the claim is withdrawn, the Office Action does indicate on the "Office Action Summary" form that the claim is not even pending. This is clearly a typographical error and there is simply no basis to assume that the silence with respect to the withdrawn status of this claim (and an affirmative indication that the claim is cancelled) amounts to an implicit spontaneous withdrawal of the restriction requirement with respect to only this single dependant claim and a further indication of allowability of the claim. This claim was withdrawn with Applicant's election of claims 9-12 in the response of 9/7/2010, regardless of the Examiner's subsequent summary of the status of the claims.

Election/Restrictions

2. Newly submitted claims 34, 35, and 42 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

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the claims and the elected invention (original claims 9-12) lack a same or corresponding “special technical feature” under PCT rule 13.2 because the features common to both inventions (*e.g.*, plotting a plurality of signals and providing an alert for perturbations of the plots) do not avoid the prior art (see, *e.g.*, restriction requirement of 7/7/2010 and/or US 4,422,485), and thus unity is lacking.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 34, 35, and 42 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

- 3.** The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- 4.** Claims 33 and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner was unable to find support in the originally-filed disclosure for an apparatus comprising “at least four leads”. Although processing of four signals does appear to draw support, these four signals could come

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from four sensors on the same lead, or various other combinations of any number of signals acquired by any number of sensors on any number of leads.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of "if" in lines 4 and 7 of the claim renders it unclear whether the response is conditional on the perturbations. In other words, the claim requires the response "if" a condition is met, but does not preclude the response "if" the condition is not met. It is respectfully suggested to replace the instances of "if" with "when" to indicate that the language does in fact limit the claim. Currently, claim 10 fails to further limit claim 9.

Allowable Subject Matter

7. Claims 9, 11, 12, 25-32, 36-40, and 43 are allowed.
8. Claims 33 and 41 remain rejected under 112(1).
9. Claim 10 remains rejected under 112(2), but would be allowable if the rejection is overcome.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL KAHRELIN whose telephone number is (571)272-8688. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Niketa Patel can be reached on (571) 272-4156. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Kahelin/
Primary Examiner, Art Unit 3762